

HOUSE BILL 1032

By Watson

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 35 and Title 8, Chapter 36, relative to
mandatory retirement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 8-36-205(a), is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) A mandatory age requirement shall also apply for members who are employed as firefighters, police officers or emergency medical services personnel with a political subdivision participating in the Tennessee consolidated retirement system, or who have been transferred from such a position to a supervisory or administrative position within the police or fire department or emergency medical services; provided the political subdivision has adopted a mandatory retirement age requirement pursuant to this subdivision (a)(2), and provided that the mandatory retirement of any such member does not violate the Age Discrimination in Employment Act, compiled in 29 U.S.C. §621 et seq. In cases of doubt, the respective political subdivision shall determine whether the member is employed in a position requiring the mandatory retirement of such member under this subdivision (a)(2). In making any such determination, the political subdivision shall apply the applicable definitions contained in chapters 34-37 of this title and in the Age Discrimination in Employment Act, compiled in 29 U.S.C. §621 et seq. Any political subdivision participating in the retirement system may establish a mandatory retirement age requirement for all its firefighters, police officers and emergency medical services personnel and for all its employees who have been transferred from the position of firefighter or police officer or from a position within its

emergency medical services to a supervisory or administrative position within the police or fire department or within the emergency medical services; provided that:

(A) The terms and conditions of the requirement shall be the same for all such employees within its employ;

(B) The mandatory age requirement shall not be less than sixty (60) years of age;

(C) Each such employee shall be retired on the first day of the month following the month in which the employee attains the age requirement established by the political subdivision;

(D) If the mandatory age requirement established by the political subdivision is less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act (42 U.S.C. §§401-425), each such employee shall be entitled to the supplemental bridge benefit established pursuant to § 8-36-211; and

(E) The chief governing body of the political subdivision passes a resolution authorizing the establishment of the mandatory retirement age requirement. If the mandatory age requirement established by the political subdivision is less than the age requirement for receipt of old age and survivors benefits under Title II of the Federal Social Security Act (42 U.S.C. §§401-425), such resolution must further contain an authorization granting the supplemental bridge benefit and the acceptance by the political subdivision of the liability associated with the bridge benefit. All costs associated with providing the supplemental benefit shall be paid by the political subdivision and not by the state. Notwithstanding this section or any other law to the contrary, the terms of any resolution to adopt a mandatory retirement age requirement pursuant to this

subdivision (a)(2) may include, at the option of the political subdivision, the deferral of the effective date of the mandatory retirement requirement up to the July 1 next following the passage of twelve (12) months from the effective date of the resolution; provided, however, that no such deferral shall impact the right, if any, that a member may otherwise have to receive the supplemental bridge benefit provided for in §8-36-211.

SECTION 2. Tennessee Code Annotated, Section 8-36-205(a)(3)(B), is amended by deleting the language "in day-to-day law enforcement or firefighting activities." and by substituting instead the language "in day-to-day law enforcement, firefighting or emergency medical services activities."

SECTION 3. Tennessee Code Annotated, Section 8-36-205(a)(3)(C), is amended by deleting the language ", or as the chief of a police department or of a fire department," and by substituting instead the language ", as the chief of a police department or of a fire department, or as director of emergency medical services,".

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. The provisions of this act shall be subject to funding being provided in the general appropriations act.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.